



**ROBERT L. EHRlich, JR.**  
GOVERNOR

STATE HOUSE  
100 STATE CIRCLE  
ANNAPOLIS, MARYLAND 21401  
(410) 974-3901  
(TOLL FREE) 1-800-811-8336

TTY USERS CALL VIA MD RELAY

May 21, 2003

The Honorable Thomas V. Mike Miller, Jr.  
President of the Senate  
State House  
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution today I have vetoed Senate Bill 455 - *Vehicle Laws - Speed Monitoring Systems - Radar Cameras*.

Senate Bill 455 authorizes the use of speed monitoring systems to identify and fine speeders in residential districts (as currently defined in law and also having a maximum speed limit of 35 miles per hour) and in school zones (as established in current law). The bill would establish a maximum fine of the lesser of: (1) \$100; (2) the amount established by a local jurisdiction; or (3) the amount established by the District Court penalty deposit schedule.

Current law provides for a fine not exceeding \$500 and varying numbers of points for speeding, with the number of points depending on how many miles per hour over the speed limit the offender is traveling. The use of radar operated by police officers to catch speeders is well-established practice.

The Department of Transportation has requested a veto of this bill. Although acknowledging that speed cameras will reduce speed, the Department asserts that there is no data to support the notion that speed cameras will reduce accidents. The Department also raises serious concerns about how the current speed limits are set in the State.

If this legislation were enacted, Maryland would be the first state in the country to have a statewide program of this type. On the east coast, only Washington, D.C. allows these speed systems. Inevitably with any new technology there will be issues that must be resolved. The red light camera law is a case in point. I have recently signed legislation (Chapter 218) designed to ensure that the timing of lights is uniform. Further, there is currently a court challenge to the constitutionality of the Washington, D. C. speed camera program. The legal and technological issues should be litigated and refined in other jurisdictions before Maryland implements the program.

Further, there is no uniform method for establishing speed limits and no requirement that safety-engineering principles be used when establishing speed limits. I understand that the

Federal Highway Administration is now in the process of establishing guidelines to be used when establishing speed limits. These guidelines are to be released in 2004.

It may be in recognition of the arbitrary nature of current speed limits that the bill provides for a 10 mile per hour "grace speed" over the speed limit before an individual may receive a citation. However, it sends the wrong message that speeding within this range is to be ignored, especially in school zones.

Although the bill is limited to school zones and residential areas, some residential roads that would fall under the bill that are in fact major thoroughfares for commuters and others, including some six-lane divided roadways.

The Chief Judge of the Court of Appeals on behalf of the Judiciary has also requested a veto of this bill. He has significant concerns about the costs of this program to the District Court. He estimates the costs to re-program the traffic and civil databases to be \$2.4 million. There may also be the need for additional judges, staff, and courtrooms. Without knowing how many speed cameras there will be these costs are difficult to estimate. Chief Judge Bell does point out, however, that in 2001 there were 21,000 red light citations issued. In the same year, there were 650,000 speeding citations. Based on these figures, the potential costs to the District Court are enormous. Even if the increase in expenditures proves to be more modest, it is difficult to justify any increase in expenditures in the current fiscal climate.

The courts have additional administrative concerns. The bill allows each county and municipality to set its own fine, provided it does not exceed \$100 or the amount of the prepaid fine set by the District Court. There is the possibility that judges will have to deal with figuring out numerous fines depending on the jurisdiction in which the offense occurred. Other matters will also be handled on a jurisdictional basis, rather than the statewide basis for which the District Court was intended. This will result in a loss of efficiency, which is vital to the District Court's ability to process the high volume of cases it receives.

I also have due process concerns. This bill allows both charging and trial by camera. In other speeding cases, a law enforcement officer exercises discretion based on the circumstances as to whether it is appropriate to stop and charge a person. A speed camera violation will result in issuance of a ticket regardless of the time of day and the circumstances of the case. At trial under current law, it is up to the State through testimony by a law enforcement officer to prove the guilt of the offender beyond a reasonable doubt. In Senate Bill 455, the State would still retain the burden of proof, but with the lesser civil standard of proof by a preponderance of the evidence based on the photograph of the vehicle. Unless the alleged speeder requests the presence of the speed monitoring system operator at least 20 days before trial, the only evidence that will be needed at trial will be a photograph with the speed listed. This seems to me to violate fundamental principles of fairness, and potentially violates the constitutional presumption of innocence. While historically speeding tickets are governed by criminal laws, this bill would require the owner prove his innocence, although ostensibly a civil proceeding.

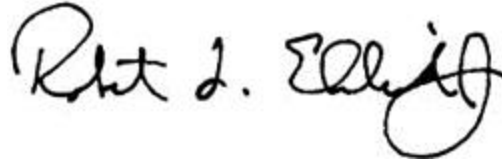
The Honorable Thomas V. Mike Miller, Jr.  
March 21, 2003  
Page 3

Chief Judge Bell in his veto request points out that proof of a violation is clearly demonstrated with red light cameras. The photographs show a vehicle in an intersection with a red light. With speed cameras, the proof is far less clear. The photographs show a vehicle along with a written statement purporting to state the speed of the vehicle. Yet if this bill were enacted, this type of photograph would be sufficient for a fine and a suspension of registration if the fine is not paid.

In addition to the legal, administrative, and technological issues, I have additional concerns over the privacy issues raised by the use of surveillance technology by the government. Although speeding is an issue that we must address, I am troubled by the intrusive nature of this type of technology and its use by the government.

For the above stated reasons, I have vetoed Senate Bill 455.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert L. Ehrlich, Jr.", with a stylized, cursive flourish at the end.

Robert L. Ehrlich, Jr.  
Governor